

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Shawn & Alison Graham,
Appellants,

v.

Linn County Board of Review,
Appellee.

ORDER

Docket No. 13-57-0078
Parcel No. 09201-01002-00000

On October 25, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Shawn and Alison Graham were self-represented and requested their appeal proceed without a hearing. Assistant County Attorney Gary Jarvis represented the Linn County Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Shawn and Alison Graham are the owners of property located at 2978 Springville Road, Springville, Iowa. The real estate was classified residential on the January 1, 2013, assessment and initially assessed at \$285,300. (Assessment Roll, Feb. 15, 2013). After an inspection by the Assessor's Office and prior to the Board of Review protest period, the property's assessment was lowered to \$264,600, allocated as \$45,400 in land value and \$219,200 in improvement value.

The Grahams protested their assessment to the Linn County Board of Review on the grounds the property was inequitably assessed, the property was assessed for more than authorized by law, and there was an error in the assessment. Iowa Code § 441.37(1)(a)(1),(2), & (4). They asserted the correct value was \$201,107, the subject's 2012 assessed value. The Board of Review denied the protest.

The Grahams then appealed to this Board. On their Notice of Appeal & Petition form, the Grahams state the “property was assessed in error with the inclusion of a non-existent addition to our house.” They continue on to note that the “Assessor acknowledged the error and removed it from the assessment description.” We find the Grahams dropped their error claim with this statement, and the Appeal Board will proceed considering only their inequity and over-assessment claims.

The property record card indicates the subject is a two-story, frame home built in 1875 with 2544 square feet of living area. It has a three-quarters, unfinished basement. Other features include an open porch, wood deck and 400-square-foot carport. The dwelling is listed in above normal condition and has an average quality grade (4). The property also includes a 3360 square-foot steel utility building, another 7056 square-foot steel utility building, a hoop house, a shed, a gazebo, and brick patios. The site is 3.08 acres.

In support of their Board of Review protest, the Grahams submitted seven comparable properties. These properties are summarized below.

| Address | Year | TSFLA | Land Value | Dwelling Value | Dwelling Value PSF |
|----------------------|-------------|--------------|-------------------|-----------------------|---------------------------|
| subject | 1875 | 2544 | \$45,400 | \$219,200 | \$86.16 |
| 3653 Springville Rd | 1860 | 2320 | \$48,400 | \$95,800 | \$41.29 |
| 681 Highway 1 | 1860 | 2487 | \$59,800 | \$148,900 | \$59.87 |
| 1258 Waubeek Rd | 1890 | 2229 | \$46,900 | \$162,800 | \$73.04 |
| 356 McClelland Rd | 1887 | 2672 | \$66,800 | \$157,300 | \$58.87 |
| 1162 County Home Rd | 1860 | 1924 | \$51,500 | \$80,000 | \$41.58 |
| 1417 Burnett Station | 1880 | 2592 | \$44,900 | \$93,800 | \$36.19 |
| 3287 C Avenue Ext | 1883 | 2128 | \$61,000 | \$125,800 | \$59.12 |

We note the \$219,200 improvement value listed for the subject includes all outbuildings, sheds, gazebos, and patios, which total \$96,800. Removing the value attributed to the outbuildings from the total assessed value of the improvements, results in an assessed value for the dwelling alone of \$122,400, which would result in a dwelling value per-square-foot of \$48.11.

Likewise, the improvement values listed for the Grahams' comparables also include outbuilding improvements. With the exception of 3653 Springville Road, each property contains some form of outbuilding, such as a shed, garage, lean-to, or utility building. The appraised value of the comparables' outbuildings range from \$400 to \$12,200. Upon review, we find that the dwellings appear to be reasonably similar in age, style, size, quality, and condition. However, the most significant difference between the subject and each comparable property is the quality, condition, and size of the outbuilding improvements. The comparables' outbuildings appear to be of lesser quality, in worse condition, and of much smaller size than those on the subject property. For this reason, we find the properties offered by the Grahams are not sufficiently similar and therefore are not comparable for an equity analysis.

With regard to the dwelling value, the comparables' median dwelling assessed value per-square-foot is \$53.38 and the average dwelling assessed value per-square foot is \$50.59. The subject's dwelling value per-square-foot (\$48.11) is below both the average and median of the Grahams' comparables' dwelling value per-square-foot. This suggests the subject property's dwelling is not inequitably assessed.

The Grahams submitted a letter in advance of the written consideration of their appeal. The Grahams state they purchased the subject property on April 7, 2006, from Charles and Judith Forsblom for \$250,000. Prior to the purchase, the Forsbloms used the property as a commercial enterprise that involved the breeding, training, and stabling of horses. The Grahams state they "purchased the property to provide off season storage in the outbuildings, of equipment owned by [their] business Clean Cut Property Services, Inc., and the house as [their] residence." They indicate that the storage capacity of the outbuildings weighed heavily on the purchase price and was dependent on continuing the prior commercial use. The use of the subject property for Clean Cut Property Services' storage would significantly reduce expense for rental of similarly sized buildings elsewhere. After the

purchase, however, Linn County ordered the Grahams to cease their use of the outbuildings for Clean Cut Property Services' storage. The Grahams state this then rendered the outbuildings useless for the intended purpose and they subsequently had to rent and then purchase another commercial property.

Under Iowa Administrative Code rule 701-71.1(3), the subject property may have been classified agricultural while owned by the Forsbloms if its "principal use [was] devoted to the . . . rearing, feeding, and management of livestock" for intended profit. Thus, the Forsbloms use of the property may have been considered agricultural and not "commercial" as the Grahams suggest.

Finally, the Grahams provided one picture showing that vinyl windows were installed on the subject prior to their purchase and another picture showing an enclosed, four-season porch prior to its removal. The Grahams also contend the removal of a swimming pool, decking, fencing, corrals, breeding stalls, and tack areas devalued the property. They state that Linn County has never considered these removals to lessen the property's value. Aside from this assertion, however, they provide no evidence to substantiate that removal of these items devalued the property.

Ultimately, the Grahams submitted evidence of only one property that recently sold. 681 Highway 1, Mount Vernon, sold on August 24, 2012, for \$235,400 and sold again on April 30, 2013, for \$199,750. However, the Grahams did not make any adjustments to this sale to account for the difference in outbuilding improvements. Altogether, the Grahams failed to provide sufficient evidence, such as adjusted sales of comparable properties or an appraisal, to establish the subject property's fair market value as of January 1, 2013.

The Linn County Assessor's Office submitted evidence on behalf of the Board of Review. The Assessor completed a full residential reappraisal in 2013 that analyzed and revalued all residential properties. It asserts the \$809 increase in land value and \$62,684 increase in dwelling value from 2012 to 2013 is attributable to the revaluation. (Exhibit J).

At the request of the Grahams, Caleb Howard from the Assessor's Office conducted an inspection of the subject property's outbuildings in April 2013 and verbally obtained information about the dwelling. (Exhibit D). As a result, the Assessor changed the dwelling's condition, modified the hoop house's dimensions, and repriced the steel utility buildings. (Exhibit B).

In support of its position, the Assessor's Office submitted a market value comparable spreadsheet. The market value comparables consist of seven rural residential properties built from 1864 to 1925. (Exhibit G). The properties range in size from 1832 to 3142 square feet and are of similar quality and condition. The properties sold from February 2010 to February 2013, with sale prices ranging from \$190,000 to \$282,500. Although these comparables lack similar outbuilding improvements as the subject, the Assessor adjusted the properties to account for this difference. After adjustment, the sales prices range from \$217,444 to \$367,287. The Assessor asserts that Comparable 1 (2078 Round Grove Road, Central City) is the most similar property to the subject and should be given the most consideration. (Letter from Julie Kester, Linn County Assessor, Sept. 18, 2013). It sold on October 30, 2012, for \$250,000 and has an adjusted sales price of \$262,993.

The Appeal Board finds that the Grahams' evidence failed to establish that the subject property is inequitably assessed or over-assessed. First, the properties offered by the Grahams were not comparable to the subject property for an equity claim because of differences in outbuilding improvements. Second, the Grahams provided insufficient evidence of the subject's fair market value as of January 1, 2013, to prove the property is over-assessed.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

In their protest to this Board, the Grahams claimed the property is inequitably assessed under section 441.37(1)(a)(1) and the property is assessed for more than authorized by law under section 441.37(1)(a)(2).

To prove inequity, the Grahams may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, the Grahams may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a

higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

We found the subject property differed significantly from the Grahams’ comparables due to differences in size, quality, and condition of the outbuildings. As a result, these properties are not suitable for use in an equity analysis under *Maxwell*. We also note the evidence showed the Graham’s dwelling is equitably assessed when compared to the dwellings of the seven other properties they provided in their Board of Review protest. Further, the Grahams made no claim that the Assessor applied an assessment method in a non-uniform manner to the subject. Ultimately, the Grahams have not shown the subject property is inequitably assessed under either the *Eagle Food Centers* or *Maxwell* tests.

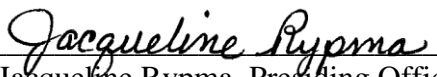
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the Grahams have a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, they must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, they must provide evidence of the property’s correct value. *Boekeloo*, 529 N.W.2d at 276-77.

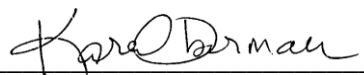
Although the Grahams assert the property is over-assessed and request this Board return the assessment to the 2012 value, they provided no evidence of the property’s fair market value as of January 1, 2013. While the Grahams submitted properties they considered comparable, only one of these properties recently sold and the Grahams made no adjustment to account for the difference in

outbuilding improvements or any other differences. In contrast, the Assessor submitted adjusted sales data which suggests the subject's fair market value is between \$217,444 and \$367,287. The Assessor gave the greatest consideration to Comparable 1 (2078 Round Grove Road, Central City), which has an adjusted sales price of \$262,993. The subject's 2013 assessed value of \$264,600 falls within the range of the adjusted sales comparables and is roughly equivalent to Comparable 1. After consideration of all the evidence, we find the Grahams have not established their property is over-assessed.

THE APPEAL BOARD ORDERS the assessment of the Shawn and Alison Graham's property located at 2978 Springville Road, Springville, Iowa, as set by Linn County Board of Review is affirmed.

Dated this 24th day of December, 2013.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member

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